

Application No. 10/811,625

b. Remarks

Claims 1-20, as amended, are pending in the application. Claims 1-3 and 5-20 stand rejected. Claim 4 has been objected to as being dependent on a rejected claim, but has been rewritten to include all of the limitations of the base claim and intervening claim. The claims have been amended.

1. Rejection under §102(b)

Claims 1, 6-11, and 13-16 stand rejected under 35 USC §102(b) as being anticipated by Kelleway. Independent Claim 1 has been amended to include the limitations of Claim 4, which is believed to contain allowable subject matter (see discussion below). To provide antecedent basis for "the curved edge" in Claim 1, the words "an upper, curved" have been substituted for "the curved" in Claim 1, though. Note that the inadvertent second recitation of "first jaw member when the tool is in an open position" has been eliminated from amended Claim 1.

As amended, Claims 6-11 and 13-16 depend directly or indirectly on allowable Claim 4, which has been rewritten to include the limitations of both base claim 1 and intervening claim 2 and is believed to be in condition for allowance.

Where a claim is rejected as anticipated by a cited reference, no question of obviousness must be present. "In other words, for anticipation under 35 USC 102, the reference must teach every aspect of the claimed invention, either expressly or impliedly. Any feature not directly taught must be inherently present." See MPEP §706.02(a).

Since Applicant's invention as presently claimed has not been patented or described in Kelleway, Applicant's invention is believed not to be anticipated by Kelleway under Section 102(b). Allowance of Claim 1, and of Claims 6-11, and 13-16, is requested.

2. Rejection under §103(a)

Claims 2, 3, 5, 12, and 17-20 stand rejected under 35 USC §103(a) as being unpatentable over Kelleway in view of Chen. Claims 2 and 3 depend on amended Claim 1, which now includes the limitations of Claim 4. Claim 4 was objected to, but has been rewritten and is believed to be in condition for allowance (see discussion below).

As amended, Claims 5 and 12 depend directly or indirectly on amended, independent Claim 4, which is believed to be in condition for allowance.

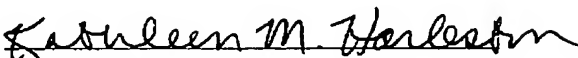
Independent Claim 17 has been amended to include the limitations of Claim 4, which is believed to contain allowable subject matter (see discussion below). Claims 18-20 depend directly or indirectly on amended Claim 17.

3. Allowable Subject Matter

The Office action acknowledges that Claim 4 is directed to allowable subject matter. Claim 4 has been rewritten in independent form and the limitations of the base claim (1) and the intervening claim (2) have been included. No new matter has been introduced by this amendment. Claims 5-16, as amended, depend directly or indirectly on Claim 4.

Although Applicant respectfully disagrees with the rejections, Applicant seeks to gain an auspicious allowance and has therefore voluntarily amended the claims. No new matter has been added by these amendments. Applicant would be pleased to supply additional information in support of this application, or to discuss over the telephone any additional amendments the Examiner considers necessary to place the application in condition for allowance. Applicant requests that these amendments be made of record in the case and considered by the United States Patent and Trademark Office Examiner, and that the claims as amended be allowed.

Respectfully submitted,
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